

Regulation of Prostitution in the Netherlands: Liberal Dream or Growing Repression?

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Abstract This paper focuses on the regulation of prostitution in the Netherlands from the twentieth century onward. It aims to provide a full description of the Dutch position on prostitution through the interpretation and explanation of current Dutch prostitution policy. This will be achieved by analyzing the legal narratives that substantiate the legal rules provided in both Dutch criminal and administrative law concerning the regulation of prostitution. We analyze the Dutch prostitution legislation of the past, present, and future, using a newly developed analytical framework. Using this framework, we reconstruct the legislator's attitude towards prostitution using insights from previous theoretical work on prostitution and using models aimed at regulating this phenomenon that range from a total ban to full decriminalization. In our analysis, we also use the legitimating grounds for application of criminal law developed by Feinberg. These grounds are also used in this paper to interpret the administrative intervention in prostitution. This paper reveals a paradox: The idea of a liberal dream goes hand-in-hand with growing repression of freedom in the Dutch prostitution sector.

Keywords Prostitution · The Netherlands · Local authorities · Legislation · Tolerance policy · Feinberg

Introduction

Traditionally, the Netherlands is characterized as one of the most liberal countries in the world. Although the concept of “liberal” is difficult to define, a great number of scholars agree that liberalism means promotion of individual liberty, freedom of choice, and government neutrality in matters of personal morality (Berlin 1969; Unger 1976; Dworkin 1978; Ackerman 1980; MacIntyre 1981; Young 2002). The liberal image of the Netherlands is said to be a

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consequence of the seemingly tolerant attitude of the legislator, judiciary, and authorities toward controversial issues such as drug use, euthanasia, and prostitution (Cohen-Almagor 2005; Buruma 2007; Spapens et al. 2015).

However, when it comes to prostitution, it is doubtful whether this picture is based on reality, since it is now well established, from a variety of studies, that characterization of Dutch prostitution policy as *laissez-faire* is too simplistic. An explanation for this misunderstanding is that, from a legal research perspective, the regulation of prostitution in the Netherlands has been largely neglected.

Although several authors have published papers about prostitution in a Dutch context, a literature review reveals that the vast majority of these studies have analyzed prostitution from a sociological, criminological, political science, or gender studies perspective. For example, Kilvington, Day, and Ward, as well as Zeegers and Althoff compared the Dutch and Swedish prostitution policies (Kilvington et al. 2001; Zeegers and Althoff 2015), Weitzer compared the Dutch approach toward prostitution with the criminalization of prostitution in America (Weitzer 2012), and Huisman and Kleemans critically assessed the logic of the dominant idea that human trafficking is reduced when actors in the legalized prostitution sector are made responsible for what happens on their premises (Huisman and Kleemans 2014). Furthermore, Wagenaar and Altink argued that prostitution policy is less developed than more established policy domains, such as health, education, social welfare, or the environment and suggested some conditions to prevent prostitution policy from entering the realm of morality politics and to arrive at an effective and humane form of policymaking (Wagenaar and Altink 2012). Finally, Outshoorn's research focused on prostitution policies from a women's studies perspective. In 2004, she examined the legalization of brothels in the Netherlands in 2000, and focused on the Women's Movement and its influence on lifting the ban on brothels (Outshoorn 2004a; Outshoorn 2004b). In 2012, she discussed the changes in prostitution policy in the Netherlands by examining the policy discourse frames of the major actors in the prostitution debates (Outshoorn 2012).

As far as we know, Brants is one of the few legal scholars who has published a more legally orientated research paper on the regulation of prostitution in an international (non-Dutch) academic journal (Brants 1998). She examined the possible consequences of the intended legalization of commercial prostitution in 2000, after being tolerated for decades. Brants concluded that the prostitution policy in Amsterdam had taken regulated tolerance to its limits and predicted that legalization of the prostitution sector would make little difference. Nevertheless, she warned of the counterproductive effects of the new regulatory policy: licensing, higher costs, and tighter administrative control. This would push small brothel owners and other segments of the prostitution population out of the market.¹ She also warned that the prostitution sector would be controlled by a limited group of people and that financially weak prostitutes would disappear into illegality.

In 2014, the criminologists Huisman and Nelen presented a short description and analysis of the latest developments in the prostitution sector in the Netherlands and, in particular, developments in the red-light district of Amsterdam since the publication of Brants' paper (Huisman and Nelen 2014). Their study revealed that the majority of Brants' predictions have come true, but that she did not foresee that the Netherlands would tighten up prostitution legislation so relatively soon after lifting the ban on brothels in 2000.

¹ In this paper, the term brothel owner will be used for the person who runs a brothel.

All the research presented above has focused on a specific period in the regulation of prostitution. The added value of this paper compared to previous research is that it provides an in-depth legal assessment of the changes and trends in the regulation of prostitution in the Netherlands between the beginning of the twentieth century and 2017. Furthermore, our paper focuses on the rationales of this legislation instead of assessing the effects of the prostitution legislation (cf. Brants 1998; Huisman and Nelen 2014). This paper aims to analyze the legal narratives that substantiate the legal rules laid down in both Dutch criminal and administrative law concerning the regulation of prostitution since the beginning of the twentieth century. It deals specifically with the political debate prior to the changes in prostitution legislation.² As far as we know, no other legal or specialized scholar has conducted such an analysis before.

Our analysis starts at the beginning of the twentieth century for a number of reasons. First, this enables us to provide a deeper insight into the various ways in which prostitution has been regulated in the Netherlands. Moreover, the legislation concerning prostitution introduced in 1911 was actually still in force in the year 2000. Since then, Dutch legislation has reformed the regulation of prostitution drastically. Therefore, looking back to the beginning of the twentieth century is necessary in order to understand and to fathom the various reforms of prostitution legislation.

The research questions, which are the basis of this paper, follow from the above. How has the Dutch legislator regulated the prostitution sector since the beginning of the twentieth century? What were the different attitudes of the legislator toward prostitution during this period? What reasons were used to substantiate the choices made? Answering these questions will enable us to obtain broad insight into Dutch prostitution policy over the years, which in turn will help us to interpret and explain current prostitution policy in the Netherlands. Finally, it will enable us to assess whether the liberal and tolerant image of the Netherlands with regard to prostitution anno 2017 corresponds with the reality on the ground.

To answer these questions, we will analyze three different periods in Dutch prostitution legislation: past, present, and future. In these three periods, we will reconstruct the legislator's attitude toward prostitution using insights from theoretical work on prostitution, models designed to regulate this phenomenon, and the legitimating grounds for application of both criminal and administrative law.

The investigation offered in this paper is relevant for both readers and scholars within and outside the Netherlands. The Netherlands is always seen as a pioneer in the area of regulating prostitution, and this paper gives a "state of the art" overview of the way prostitution is regulated by the Dutch legislator. In this way, it provides a relevant insight into the situation with regard to prostitution in the Netherlands. This paper also aims to develop an analytical framework that can be useful in comparative legal research. We think that developing a more appropriate framework will lead to a deeper and more nuanced understanding of the regulation of prostitution in different countries.

The methodological approach taken in this paper is varied (Creswell 2014). It is based around a literature review of theoretical studies on the regulation of prostitution, and a doctrinal legal analysis of legislation and leading academic literature. The doctrinal analysis includes an in-depth

² In the Netherlands, acts/laws are enacted jointly by the government and Parliament. The government and the Lower House of Parliament can both submit legislative proposals. Usually, the government takes the initiative to do so. During the legislative process, the government will give an explanation of its proposals. If the majority of Parliament agrees with this explanation, we will refer to these explanatory remarks as those of the legislator. If Parliament does not agree with the government's remarks, we will refer to the remarks as those of the government.

analysis of parliamentary proceedings. Therefore, we will examine all parliamentary documents about the written reports and the oral debate on the legislation proposals regarding prostitution.³ We will critically assess the essential features of the parliamentary documents concerning prostitution legislation, and combine and synthesize all the relevant elements to establish a correct and complete understanding of Dutch prostitution legislation and its developments since the beginning of the twentieth century (Watkins and Burton 2013).

This paper will be divided into six parts. First, we will describe our analytical framework, which is based on various theoretical constructs concerning the regulation of prostitution. This framework will help us to gain a deeper and more nuanced perspective on the way prostitution is regulated. It also allows us the opportunity to analyze and compare the different periods of Dutch prostitution regulation.

The subsequent sections discuss the different periods of Dutch prostitution regulation, starting at the beginning of the twentieth century with the tightening of decency legislation high on the government's agenda. This eventually led in 1911 to the "Act against Immorality," prohibiting the running of brothels and pimping. However, what is known as "the ban on brothels" was quickly ignored and led to noncompliance, and after which a period of *laissez-faire* began. Although strictly forbidden formally, brothels were secretly allowed and later even openly tolerated. The next sections examine the "Act against Immorality" and assess the enforcement (or lack thereof) of this Act after its adoption.

The ban on brothels being removed from the Dutch Criminal Code in 2000 and the introduction of a decentralized system of regulation is then addressed. This legislative change paved the way for local authorities to introduce a tightly regulated system, within which the scale of prostitution could be managed, the working conditions kept at an acceptable level, and forced prostitution eliminated.

The next section will examine the latest developments in prostitution legislation starting with the national legislator's new initiative that took place in 2009. This initiative involved amending the regulation of prostitution so that it would include a uniform and national approach to strengthen the fight against abuses in the sex industry. The "Bill Regulation of Prostitution and Combatting Abuses in the Sex Industry" was adopted by the Lower House of Representatives in the summer of 2016. It contained a strict and tight licensing system for sex businesses with an extensive duty of care for brothel owners. We will also take a brief look at recent plans concerning prostitution, as described in the coalition agreement of the new Dutch government, which was installed in October 2017.

The sections mentioned above will lay the foundation for the last section. This section gives a summary of and an explanation for the main developments in the regulation of prostitution in the Netherlands since the beginning of the twentieth century.

The Regulation of Prostitution from a Theoretical Perspective

Prostitution has been a part of society for many years, irrespective of where you go (Bullough 1964; Scott 2016). In virtually every country, authorities are confronted with this phenomenon

³ A parliamentary document (*Kamerstuk*) is a written text exchanged between the Dutch government and the Dutch Parliament. The proceedings (*Handelingen*) of the Dutch Parliament contain the minutes of its sittings. Parliamentary papers and proceedings from the year 1995 to the present day are available on the website of the Dutch state authorities (www.overheid.nl). Parliamentary papers and proceedings from before 1995 can be found on the website of the Dutch Parliament (www.statengeneraaldigitaal.nl).

(Wagenaar and Altink 2012). This results in a variety of ways in which prostitution is regulated. Aronowitz distinguishes four different regulatory models (Aronowitz 2014), which are the first element of the analytical framework used in this paper.

In the first model, prostitution is fully criminalized. The offer and purchase of sexual services is illegal, as is the facilitation of prostitution, such as running a brothel or pimping. In the second model, prostitution is partially criminalized. The offer and sale of sexual services is legal, but the purchase and facilitation of sexual services is illegal. In both models, no distinction is made between voluntary sexual contact and forced prostitution (Aronowitz 2014, pp. 231–233; Phoenix 2009, pp. 15–17).

Conversely, in both the third and the fourth model, the offer, purchase, and facilitation of sexual services is legal. Only forced prostitution and prostitution by minors is regarded as unlawful. These forms of prostitution involve the penalization of brothel owners, pimps, and others who force someone into prostitution, as well as clients who purchase the sexual services of an underage prostitute (Aronowitz 2014, pp. 233–235). Yet, the third and fourth models differ from each other with regard to the way the prostitution sector is regulated in terms of detail. In the third model, prostitution is legalized, which leads to administrative legislation specially developed for the regulation of the prostitution sector (Aronowitz 2014, pp. 233–234). In the fourth model, prostitution is fully decriminalized. This means that prostitution is only subject to legislation and rules, which are also applied to other forms of legitimate labor (Aronowitz 2014, p. 235).

However, in the literature, there is no agreement on the precise classification of prostitution policy in regulatory models. Consequently, the exact number of models is debated in the theoretical literature (West 2000; Mossman 2007; Phoenix 2007, 2009; Lutnick and Cohan 2009; Hindle et al. 2011; Weitzer 2012). In some studies, only three regulatory models are distinguished, since the first and second models are consolidated into one model of criminalization (Phoenix 2007; Lutnick and Cohan 2009). In addition to this, a number of scholars make a distinction between jurisdictions in which prostitution is totally prohibited and jurisdictions in which prostitution itself is permitted but prostitution-related activities are punishable by law (West 2000; Mossman 2007; Hindle et al. 2011). In addition to this, Weitzer argues that *de iure* full or partial criminalization and *de facto* legalization can simultaneously exist in the same regulatory model (Weitzer 2012).

Furthermore, some authors criticize the concept of regulatory models. Scouler, for example, holds that even seemingly opposing regimes such as client criminalization and legalization lead to similar outcomes (Scouler 2010; c.f. Wagenaar and Altink 2012). Agustín, on the other hand, questions the very relevance of legal regimes for the regulation of commercial sex and argues that regulatory models fail to capture the chaotic world of commercial sex, do not coincide with national borders, and are in reality — although claiming to be based on evidence — ideological constructions (Agustín 2008).

Although controversial, we believe that the concept of regulatory models can be highly useful for the purpose of this paper. The use of these models enables us, first, to study prostitution policies over the years and, second, to explain and interpret variance in the various Dutch prostitution policies. Still, we agree with the critics that a regulatory model approach alone will not provide a full insight into the reality of the situation. We believe the theoretical approach applied in this paper should consist of more than just fitting Dutch regulation into one or more regulatory models. Therefore, the theoretical framework or “lens” with which we will observe and interpret the data concerning prostitution regulation will combine the

construct of regulatory models with two other theoretical perspectives (Abend 2008, p. 180; Creswell 2014, p. 64).

The second component of our theoretical framework aimed at analyzing the regulation of prostitution is to assess the different views on prostitution. Building on the work of Brants, our analytical framework differentiates four dominant views: the prohibitionist view, the abolitionist view, the legalizationist view, and the regulationist view (Brants 1998). These different views on prostitution are the second component of our analytical framework.

First, in the prohibitionist view, prostitution is considered to be immoral and criminal in all its facets. The behavior of all parties — prostitutes, brothel owners, and clients — involved in prostitution is regarded as punishable. Therefore, in an effort to eradicate prostitution, it is often fully criminalized. This is the case, *inter alia*, in the United States with the exception of 11 rural counties in Nevada (Brents and Hausbeck 2005; McCarthy et al. 2012; Weitzer 2012).

Second, according to the abolitionist view, prostitution is morally repugnant. Abolitionists assume that voluntary prostitution simply does not exist. According to them, prostitutes are always victims of some kind of criminal exploitation. Therefore, only behavior facilitating prostitution is punishable and not the behavior of the prostitute her/himself. Frequently, the abolitionist view results in partial criminalization of prostitution. In Sweden, prostitution policy is shaped around this idea (Kilvington et al. 2001; Ekberg 2004; Skilbrei and Holmström 2011; Jakobson and Kotsadam 2011; Aronowitz 2014; Zeegers and Althoff 2015; Villacampa 2016).

Third, in the regulationist view, prostitution is considered to be an inextricable part of society, and, therefore, accepted as a social reality. Regulationists accept that prostitution exists and try to keep it under control by strict legal regulation in order to protect the public against it. However, they do not approve of prostitution and, as a result, do not consider it as regular labor. This is the case in Belgium, since the running of brothels, prompting sexual acts in public places, and advertising sexual services are officially criminalized in that country. However, these phenomena are tolerated in many cities and, as a result, prostitution is *de facto* legalized in Belgium (Vande Velde et al. 2007; Baelde et al. 2007; Weitzer 2012; Boels 2015).

Fourth, in the legalizationist view, prostitution and the facilitation of it are accepted and considered as regular labor. However, there are two types of legalizationists. According to the first type of legalizationist, the specific nature of prostitution justifies the introduction of further regulations in order to protect prostitutes and to keep prostitution under control. Germany falls within this category. The Germans accept prostitution as a normal profession but regulate it intensively due to its specific nature (Kavemann et al. 2007; Gugel 2011; Weitzer 2012; Aronowitz 2014). The second type of legalizationist does not consider prostitution as a special profession but, instead, considers it as a job like all others. If this position is followed, there is no need for special prostitution legislation, and therefore prostitution is for the most part decriminalized (Phoenix 2009). New Zealand's policy regarding prostitution predominantly departs from this point of view, but, even after adopting the Prostitution Reform Act 2003, prostitution is still, albeit minimally, regulated by the government in certain domains (Weitzer 2012; Aronowitz 2014).

As stated above, we maintain that a richer and more nuanced understanding of Dutch prostitution regulation can be obtained when various theoretical perspectives are combined to analyze the available data. Our analytical framework combines various regulatory models (the first perspective) that are the result of different views on prostitution (the second perspective). The third perspective that plays an important role in our analytical framework concerns

justification grounds. These concern the legitimization of the decisions made by legislators on whether and how to intervene in prostitution. Why did the legislator decide to intervene in the sphere of people's freedom? Building on the work of legal philosopher Feinberg, our analytical framework distinguishes four principles on the basis of which interference with citizens' freedoms by the public authorities is legitimized (Feinberg 1984; Feinberg 1985; Feinberg 1986; Feinberg 1988). Although Feinberg's work on justification grounds mainly focuses on restricting freedoms through criminal law, his theories are also seen as useful in the analysis of other fields of law. In addition to this, the various legal interventions by the authorities in the prostitution sector by means of administrative law, in terms of administrative intervention in society, differ only slightly from the criminal interference: Both types of rules limit the freedom of citizens and violation of the rules provokes a sanction in both cases.

Our analytical framework differentiates between four main grounds that may be used to justify intervention in the prostitution sector. First, the state's choice to restrict someone's freedom by means of criminal or administrative law can be substantiated with reference to the liberal harm principle (Locke 1988; Mill 1989). This principle only allows a restriction of freedom if it is necessary to protect others from harm (*Harm to others*: Feinberg 1984). In accordance with the offense principle, an interference with freedom is only legitimate in order to protect others from serious offenses as a result of a confrontation with offensive behavior (*Offense to others*: Feinberg 1985). According to the paternalism principle, the state can prohibit behavior in the interest of the welfare or the dignity of certain persons, despite their voluntary agreement with this behavior (*Harm to self*: Feinberg 1986). Finally, on the basis of the moralism principle, the state can forbid behavior for the protection of moral values (*Harmless wrongdoing*: Feinberg 1988).

On the basis of our analytical framework, which distinguishes various models of regulation of prostitution, views on prostitution, and principles that justify the state's interventions in the prostitution sector, the following sections will assess the various phases in Dutch prostitution legislation and policy. We will start with the legislation from the beginning of the twentieth century.

Act Against Immorality of 1911

In the late nineteenth century, as a result of the extension of the right to vote, political conditions changed in the Netherlands. As a consequence, confessional and socialist parties acquired more influence in the political arena. Because of this shift in the political landscape, the right-wing liberal politicians no longer dominated Dutch parliament (Kool 1999). Furthermore, there was a growing concern about the wellbeing of the lower classes of society, who, as a result of industrialization, were living in poverty. It was feared that the decline in moral standards within this group of citizens would have an effect on the moral level of society as a whole (Kool 1999). In particular, the confessionals and socialists endorsed this fight against this decline in moral standards. These political developments influenced the regulation of prostitution in this period (Soetenhorst-De Savornin Lohman and Jansz 1986; Kool 1999).

After 1900, there were several attempts to tighten up morality law in the Criminal Code (Bill to Revise the Second Book of the Criminal Code 1900; Bill to Revise and Supplement the Second Book of the Criminal Code 1904). However, these bills were rejected, because, according to the newly installed government, the proposed legislation did not go far enough in combatting the decline in moral standards effectively (Kool 1999). Eventually, in 1911, the

Act against Immorality, introduced by the new confessional government, entered into force (Act against Immorality of May 20, 1911, *Stb.* 1911, 130).

The legislator considered prostitution as an “evil of immorality,” regarding prostitution as morally reprehensible, and introduced the Act against Immorality as an attempt to restrain this evil (*Kamerstukken II* 1909/10, 56, 2–3). However, the prostitute’s behavior was not considered punishable, and, consequently, offering sexual services by prostitutes was legal. According to the legislator, a prostitute must be seen as a victim of immoral and criminal behavior on the part of others (Cleiren and Ten Voorde 2016). This underlying abolitionist basic principle resulted in the partial criminalization of prostitution by a ban on brothels and pimping, and a tighter criminalization of trafficking in women (*Kamerstukken II* 1908/09, 293, 2–3; *Kamerstukken II* 1909/10, 56, 3; *Kamerstukken II* 1910/11, 28, 5). Nevertheless, the new Act did not provide for a provision prohibiting brothel visiting or making use of the services of a prostitute since the legislator concentrated on the criminalization of the behavior that facilitates prostitution, such as running a brothel, instead of indecency in general (*Kamerstukken II* 1909/10, 56, 2). As a result, brothel owners and pimps were punishable, but prostitutes and clients were not.

The government substantiated the introduction of the Act against Immorality on different grounds. When proposing the bill, the government held that the state was not fit to act as a moralist and that state action was only legitimate if legal rights of individuals or society in general were harmed by immoral or other acts of others (*Kamerstukken II* 1908/09, 293, 3). Despite this liberal opening statement, the Act against Immorality inferred that legislating about prostitution on the part of the authorities was mainly based on moralistic grounds. The government argued that “every actual attack against public morality should be adamantly repressed,” “public life should be kept clean,” and “everybody’s feeling of morality should be guaranteed.” Therefore, “the fight against indecent acts, sources of moral degeneracy as well as other morally obnoxious behavior” should be dealt with through the use of criminal provisions, the government said (*Kamerstukken II* 1908/09, 293, 3). Thus, the Act against Immorality provided for a ban on brothels and pimping; even when prostitution voluntarily took place in the private sphere and harmed no one (*Kamerstukken II* 1908/09, 293, 3; *Kamerstukken II* 1909/10, 56, 2). A large majority in Parliament supported the government’s objectives, since in the majority’s view authorities must contest the “blot of prostitution” (*Handelingen I* 1910/11, p. 530).

The clear moralistic reasoning of the government follows from the characterization of brothel owners too. According to the government, their “infamies” were the leading source of moral degeneracy. Brothel owners were “highly anti-social and morally and socially dangerous,” since they live at the expense of the misery and immorality of others, and, therefore, in their own interest encourage and expend immorality. According to the government this “parasitic existence” must be suppressed by the criminal legislator (*Kamerstukken II* 1909/10, 56, 1–2).

Although a ban on pimping was not included in the original Act against Immorality, a majority of the House of Representatives felt that, if the bill’s goal was to combat immorality, provisions against pimping should be covered (*Kamerstukken II* 1909/10, 56, 1). The government supported this view, since pimps required, due to their “anti-social and parasitic existence,” substantial and effective combatting. (*Kamerstukken II* 1909/10, 56, 2; Hartsuiker 1964; Lindenberg 2014; Lindenberg 2015).

Nonetheless, the reasons that substantiated the Act against Immorality cannot be linked to the moralism principle solely. The ban on brothels was introduced in the interest of men as

well. The government wanted to protect men against “the constant danger of temptation” related to brothels (*Kamerstukken II* 1908/09, 293, 3). Therefore, men were, as a result of the ban on brothels, denied the ability to voluntarily visit a brothel in order to protect them from harm as a result of the moral reprehensibility of prostitution.

Although the reasons for adopting the Act against Immorality predominantly relied on the moralism principle, it also set out to protect women from harm too. In the opinion of the government the disadvantages suffered by women residing in brothels, and the impeding of their personal autonomy and freedom, justified the ban. The fact that prostitutes might voluntarily agree to their activities was no reason for the government to abandon the ban on brothels (*Kamerstukken II* 1908/09, 293, 3; *Kamerstukken II* 1909/10, 56, 2).

With the penalization of trafficking in women, the government also aimed to fight harm as a result of “its horrible and actual peculiarity” more strictly and effectively (*Kamerstukken II* 1910/11, 28, 5; *Handelingen II* 1910/11, pp. 1575–1581; Cleiren and Ten Voorde 2016). The government held that the ban on brothels would decrease the distribution channels for trafficking in women (*Kamerstukken II* 1909/10, 56, 2).

The Enforcement or Lack Thereof of the Act Against Immorality Up to 2000

The Act against Immorality did not lead to the elimination of brothels, let alone prostitution. Brothels that closed down in one place opened in others, and alternative forms of prostitution, such as streetwalking, expanded (Volmuller 1966; Stemvers 1985; Boutellier 1991). Before long, the authorities began to realize that prostitution was an inextricable part of society, which could not be eradicated (Brants 1998).

To stabilize and control the situation, from the 1920s onward brothels were increasingly allowed, albeit secretly, and, in the end, openly tolerated (Stemvers 1985; c.f. Van Dijck 2003; Vermeer 2010). Initially, the establishment of brothels was allowed as long as brothels caused no unacceptable nuisance, posed no threat to public order, and as long as no criminal offenses, such as forced prostitution and prostitution by minors, took place (Stemvers 1985; Gieske 1990). In these cases, law enforcement was not considered to serve the public interest, and, for that reason, criminal proceedings were dismissed on the basis of the so-called “expediency principle.” This principle was and still is part of Dutch criminal procedural law and allows public prosecutors to refrain from prosecution of criminal offenses such as illegal prostitution, if prosecution does not serve the public interests. Consequently, this “tolerance policy” meant that the vice remained unlawful, but enforcement of the legislation was formally suspended by the government (Brants 1998; Visser et al. 1999; Buruma 2007; Weitzer 2012; Huisman and Nelen 2014).

From the 1970s onward, the wealth of society increased, and the prostitution sector became more and more visible (Stemvers 1985; De Haan and Haagsma 1988). The latter was partly due to the sexual revolution. Boutellier demonstrates that, in the late 1960s and the early 1970s, there was a tendency to demoralize sexual issues. Sexual behavior was considered to be a private matter, in which the government should not interfere (Boutellier 1991). The Women’s Movement also contributed to the openness and acceptance of prostitution. This movement successfully advocated that voluntary prostitution should be seen as work and regulated in order to improve the position of the sex worker (Outshoorn 2004a). As a result, prostitution was no longer seen as a problem of morality but mainly as a juridical (i.e., public order and safety) issue (Boutellier 1991).

In reaction, local authorities began looking for instruments to control the prostitution sector. To combat the nuisance of window prostitution spreading over the city, a number of larger cities developed a policy to concentrate window brothels in one area or in certain streets of the city. Over time, local authorities were even expected to monitor what happened in prostitution establishments by exercising control over the organization of and the working conditions in brothels. Rather astonishingly, this policy strategy was supported by the central authorities (Gieske 1990; Brants 1998; Visser et al. 1999).

Prostitution, in the course of time, was accepted as a social reality with local authorities attempting to keep it under control through regulation and tolerance; there was no moral approval of prostitution, and it was still not seen as lawful labor. Therefore, a form of regulationism is the basis of this tolerance policy (Brants 1998).

From a legal point of view, running a brothel was still punishable by law, and, therefore, *de iure* nothing changed the partial criminalization of prostitution in the Netherlands. However, in practice, it was a matter of *de facto* legalization of prostitution (Weitzer 2012). Enforcement of criminal law was no longer seen as effectively regulating prostitution in order to call a halt to it, and to solve public and social problems related to prostitution. Instead, authorities provided guidelines in terms of stricter regulation of brothels, hoping to improve the situation of prostitutes, and to prevent public disorder and nuisance. Still, local authorities lacked the legal powers to enforce compliance with this stricter regulation themselves. Therefore, when this regulation did not lead to improvements in the prostitution sector, the authorities fell back on enforcement of the criminal law, that is, interfering with prostitution (Volmuller 1966; Stemvers 1985).

The authorities switched from enforcement of the ban on brothels on morality grounds to that of preventing harm. Harm for citizens in general was, in cases of unacceptable nuisance and public disorder, providing the justification to enforce the ban on brothels. By making strict demands on brothel owners in terms of the operational management of brothels and other prostitution establishments and their working conditions, the authorities were focusing especially on preventing harm being done to prostitutes. The same applied to the criminalization of trafficking in women, forced prostitution, and prostitution by minors. These vices remained punishable by the full force of the law.

Act Lifting the Ban on Brothels of 2000

When implementing their local prostitution policies, municipalities found themselves hampered by the limitations of the tolerance policy. The room for local authorities to develop such a policy was limited, since running a brothel and pimping were still criminalized (Outshoorn 2012). Therefore, starting in the early 1980s, the Association of Dutch Municipalities and the mayors of Amsterdam, Rotterdam, The Hague, and Utrecht, the four largest cities in the Netherlands, began a discussion about lifting the ban on brothels (Outshoorn 2004a).

However, repeated attempts to revise the Act against Immorality of 1911 failed at this point in time. The Christian Democrats were strongly opposed to the idea of sex work and managed to stop legislative initiatives successfully until 1994. In that year the Christian Democrats were, for the first time since 1917, not part of the government (Outshoorn 2004a; Alink and Wiarda 2010). This offered the new government the chance to introduce the Act Lifting the Ban on Brothels into Parliament, which came into force on October 1, 2000 (Act of 28 October 1999 to Revise the Criminal Code, some other Codes and some other Acts, *Stb.* 1999, 464).

In 2000, there was a clear change in the legislator's approach toward the regulation of prostitution. The government held that it was unrealistic to assume that the supply of and demand for sexual services would no longer exist in the future. According to the government, the existence of prostitution was a fact of life regardless of what one thought about it and, therefore, the state should recognize and accept prostitution as a social phenomenon instead of condemning it. This required a "realistic approach, without moralism" toward prostitution (*Kamerstukken II* 1996/97, 25,437, 3; *Kamerstukken II* 1997/98, 25,437, 5; *Handelingen II* 1998/99, 45, pp. 3102–3104; *Handelingen I* 1999/00, 1, pp. 10–11; Dettmeijer-Vermeulen 2012). As a result, prostitution and its facilitation were regarded as regular and lawful economic activities by the government. It followed from this that the revision of the Act against Immorality was the result of the legislator's legalizationist view on prostitution.

The Dutch Parliament supported the Act Lifting the Ban on Brothels. According to the majority of its members, prostitution between two consenting adults was a private matter. It should be spared a moralized verdict by the state and must not be denounced, because it was up to the individual to decide how to deal with his or her physical integrity (*Handelingen II* 1998/99, 44, pp. 3038, 3047–3049, 3054–3056, 3064–3066, 3069–3070; *Handelingen I* 1999/00, 1, pp. 5, 19). As a result, the ban on brothels and pimping was finally removed from the Criminal Code, which resulted in the legalization of the prostitution sector in the Netherlands.

According to the legislator, the aim of Dutch criminal policy should be the protection of those who involuntarily prostituted themselves, instead of promoting public morals (*Handelingen II* 1998/99, 45, pp. 3103–3104; Outshoorn 2004b). Therefore, a clear distinction was made between forced prostitution and voluntary prostitution (Outshoorn 2012). The legislator held that the state should more vigorously, forcefully, and effectively fight damaging forms of prostitution, such as forced prostitution or prostitution by minors. At the same time the authorities should allow forms of prostitution that were acceptable in social terms, such as voluntary prostitution by adult men or women, in order to protect the right to self-determination and the autonomy of the prostitute. (*Kamerstukken II* 1996/97, 25,437, 3; *Kamerstukken II* 1997/98, 25,437, 5; *Handelingen II* 1998/99, 45, p. 3103; *Handelingen I* 1999/00, 1, p. 11).

However, prostitution was still considered to be a special profession and the running of brothels a special business, since sexual services directly affected the physical and mental integrity of individuals (*Kamerstukken II* 1997/98, 25,437, 5; *Kamerstukken II* 1998/99, 25,437, 189b). Therefore, the legislator believed that local authorities should regulate prostitution and the prostitution sector in order to make it safer and more transparent (*Kamerstukken II* 1996/97, 25,437, 3; *Kamerstukken II* 1997/98, 25,437, 5; Raymond 2004; Dettmeijer-Vermeulen 2012). The regulation of prostitution was decentralized because, according to the legislator, local authorities were the ones most qualified to pursue a prostitution policy tailored to local circumstances, since, in practice, they actually had to deal with prostitution (*Kamerstukken II* 1996/97, 25,437, 3; Dettmeijer-Vermeulen 2012).

For that reason, starting in 2000, city councils have been permitted to adopt by-laws, in which regulations are laid down with regard to the regulation of prostitution in a municipality (Hennekens 2000; Schilder and Brouwer 2014). The provisions of a prostitution by-law could just as easily focus on protecting prostitutes as limiting nuisance (*Handelingen II* 1998/99, 44, pp. 3047, 3064; *Handelingen I* 1999/00, 1, p. 7; Wagenaar 2006). With the help of these new local powers, the authorities could improve the position of prostitutes, and fight against public nuisance and crime as well (*Handelingen II* 1998/99, 44, pp. 3038, 3047, 3054, 3064, 3069;

Handelingen II 1998/99, 45, pp. 3135, 3139–3140). In this way, according to the legislator, the Act Lifting the Ban on Brothels entitles local authorities to pursue a good, careful, and effective prostitution policy (*Kamerstukken II* 1996/97, 25,437, 3; *Kamerstukken II* 1998/99, 25,437, 17–18; *Kamerstukken I* 1996/97, 25,437, 189b).

We can conclude from this that the main objective of the Act Lifting the Ban on Brothels was the prevention and reduction of harm caused by prostitution for prostitutes and residents of municipalities. Moreover, prostitutes were protected against harm by the strengthened criminalization of trafficking in women, of involuntary prostitution, and of prostitution by minors.

Developments in Dutch Prostitution Legislation and Policy from 2000 Onward

Since the lifting of the ban on brothels in 2000, prostitutes and brothel owners have been considered to be legitimate entrepreneurs in the Netherlands. Thus, according to current Dutch law, the practice of prostitution is characterized as regular labor. Still, starting in 2000, from a legal point of view, things have become complex. A large number of legislative proposals since then, aiming to reform prostitution legislation, have been introduced, discussed, amended, and then even reintroduced. First, the Dutch government introduced the Bill Regulation of Prostitution and Combatting Abuses in the Sex Industry (Bill Regulation of Prostitution) in 2009. This bill was amended in 2014 and, as a result, renamed the Amended Bill Regulation of Prostitution. In addition to this, some members of the Dutch Parliament wanted to go one step further than the government and submitted a bill entitled the Bill Penalization of Abuse of Prostitutes Who Are Victims of Human Trafficking to Parliament in 2014.

The introduction of all these legislative proposals can be linked to changes in public opinion regarding prostitution. A number of reasons can be identified for the latter, such as recent police reports concerning prostitution and human trafficking, a number of evaluations of the Act Lifting the Ban on Brothels, and the considerable amount of media attention paid to these reports and evaluations. For example, a police report about what became known as the “Sneep case” attracted a lot of media attention. This report showed that at least 78 women were victims of three Turkish traffickers who ran a major prostitution network in Amsterdam and two other Dutch cities in the first decade of the twenty-first century (Outshoorn 2012; Huisman and Nelen 2014). In addition to this, the 2007 evaluation of the Act Lifting the Ban on Brothels by the Centre for Scientific Research and Documentation of the Ministry of Justice received extensive media attention as well. The evaluation report found that abuses, such as involuntary prostitution and sexual exploitation, were still extensively part of the prostitution sector (Daalder 2007).

Consequently, the picture of the prostitute has slowly, but fundamentally, changed from that of an independent and autonomous person to a victim of exploitation and coercion as a result of deception and maltreatment. Because of this, in Dutch society, prostitution is no longer seen as a “normal job” and prostitutes are no longer considered to be independent women who voluntarily choose their jobs. Instead, the dark side of prostitution has been emphasized (Dettmeijer-Vermeulen 2012; Outshoorn 2012; Huisman and Nelen 2014; Peršak 2014).

As a result of this change in public opinion, the way that prostitution was regulated became part of the government’s coalition agreement in 2007 (Outshoorn 2012). According to this government, consisting of two Christian parties and the social democratic party, the current

prostitution legislation did not sufficiently guarantee the autonomy of prostitutes and their right to self-determination (*Kamerstukken II* 2009/10, 32,211, 3). Consequently, the government felt obliged to tighten up prostitution legislation. For that purpose, it introduced the Bill Regulation of Prostitution into Parliament in 2009 (*Kamerstukken II* 2009/10, 32,211, 1–2).

This bill contained, among other minor things, a mandatory and uniform licensing system for sex businesses, a rise in the minimum age to work as a prostitute from 18 to 21 years, the criminalization of clients who use the services of a prostitute under the age of 21, and an obligation on the part of the local authorities for prostitutes to register themselves. According to the government, this stricter prostitution legislation was necessary to combat abuses in the prostitution sector more effectively. Therefore, more than previously, the Bill Regulation of Prostitution focused strongly on the special nature of the prostitution sector, and the many men and women who were victims of abuse. As a result, under this bill, the idea that prostitutes were able to choose their profession independently and voluntarily slipped into the background. (*Kamerstukken II* 2013/14, 33,885, 3; *Kamerstukken II* 2014/15, 33,885, 7; *Outshoorn 2012*; *Post 2016*).

Even though the picture of the prostitute as a victim of male desires is closely connected with the abolitionist view on prostitution, this bill did not lead to the criminalization of prostitution or prostitution-related activities, since the legislator still considered prostitution to be a facet of society, and as lawful and regular work (*Kamerstukken II* 2013/14, 33,885, 3). Therefore, the legislator's legalizationist view on prostitution had not changed fundamentally. The Bill Regulation of Prostitution can still be placed in the regulatory model wherein prostitution is legalized.

However, one of the differences, compared to the Act Lifting the Ban on Brothels, is that the national legislator now centralizes the regulation of prostitution on certain important parts instead of leaving it up to the local authorities. The introduction of a national, uniform, and mandatory licensing system with a large number of conditions for approval was intended to provide more effective regulation of prostitution (*Kamerstukken II* 2009/10, 32,211, 3; *Kamerstukken I* 2011/12, 32,211, C). Nevertheless, under this bill, local authorities retain the power to regulate some aspects of prostitution (*Kamerstukken I* 2011/12, 32,211, C).

It follows from the above that the most fundamental objective of the Bill Regulation of Prostitution is to protect prostitutes from harm. The bill is meant to provide better insight into the prostitution sector, which should then lead to a more effective fight against abuses inherent to it. Furthermore, it should result in an improvement in the wellbeing of the prostitute by imposing a strict duty of care on brothel owners, on the basis of which they must take measures to protect the prostitute (*Kamerstukken II* 2009/10, 32,211, 3; *Kamerstukken II* 2009/10, 32,211, 8; *Kamerstukken II* 2014/15, 33,885, 7).

Moreover, the Bill Regulation of Prostitution also aims to protect the general public from harm. As stated above, under this bill, local authorities retain the freedom to more precisely organize prostitution policy in some areas (*Kamerstukken I* 2011/12, 32,211, C). A municipal by-law, for example, may prescribe that a license for the operation of prostitution businesses may not be issued if they consider it necessary to protect the public order, the quality of life in neighborhoods, or the health of prostitutes and their clients (*Kamerstukken II* 2009/10, 32,211, 3; *Kamerstukken II* 2009/10, 32,211, 8; *Kamerstukken I* 2011/12, 32,211, C). In this way, local authorities are entitled to protect citizens against harm as a result of prostitution in their municipality (*Post 2016*). However, the government considers that this “zero policy” cannot be based on moral grounds, thereby preventing local authorities from justifying this policy by any reference to religious beliefs, cultural conditions, local views, or moral values

(*Kamerstukken II* 2009/10, 32211bre, 8; *Handelingen II* 2010/11, 51, item 8, pp. 51, 55–58; *Handelingen I* 2012/13, 32,211, 28, item 4).

However, the arguments underlying the original Bill Regulation of Prostitution were based on the paternalism principle too. It contained an obligation that prostitutes must be registered along with a prohibition against working as a prostitute for those under the age of 21 (*Kamerstukken II* 2009/10, 32,211, 9). Referring to the wellbeing, interests, and dignity of prostitutes, the government legitimized the criminalization of prostitutes who did not meet these requirements (*Kamerstukken II* 2009/10, 32,211, 8). Nevertheless, the Senate had insurmountable objections to these elements of this bill, and therefore the government had to thoroughly amend it (*Kamerstukken I* 2012/13, 33,211, L; *Kamerstukken II* 2013/14, 33,885, 1–2). In early 2014, the government introduced the Amended Bill Regulation of Prostitution.

The Amended Bill Regulation of Prostitution of 2014 removed the regulations that required prostitutes to register with the authorities. Under this bill, they are no longer punishable if they are working under the age of 21. Nevertheless, the minimum age for working in the prostitution sector has still been raised from 18 to 21 (*Kamerstukken II* 2013/14, 33,885, 8). If this bill comes into force, brothel owners will no longer be allowed to let prostitutes, who have not reached the minimum age, work for them. Furthermore, in order to protect young adults effectively from harm as a result of prostitution, the person who performs sexual acts with a prostitute who has not reached the age of 21, is punishable (*Kamerstukken II* 2013/14, 33,885, 2). In this way, young men and women must be protected from risks related to prostitution, irrespective of whether they are actual victims of abuse or whether they could prevent these risks themselves (*Kamerstukken II* 2013/14, 33,885, 3; *Kamerstukken II* 2014/15, 33,885, 7).

Although this rise in the legal age is motivated by the desire to protect young prostitutes from harm, there is probably also a paternalistic motive underlying it. In the legislator's view, people from the age of 21 on up are more mature, as a result of which they are better able to make an informed decision as to whether to work as a prostitute. Therefore, raising the minimum age is also intended to protect adolescents from the severity and risks of this profession, irrespective of the question of whether or not they have chosen this profession voluntarily or if it causes them harm (*Kamerstukken II* 2009/10, 32,211, 8; *Kamerstukken I* 2010/11, 32,211, E; *Kamerstukken II* 2013/14, 33,885, 3; *Kamerstukken II* 2013/14, 33,885, 7; [Outshoorn 2012](#); [Peršak 2014](#)).

A remarkable aspect of the Amended Bill Regulation of Prostitution of 2014 is that it does not allow local authorities to introduce a local licensing system for self-employed prostitutes, such as those who work at home. This is because self-employed prostitutes under the amended bill are no longer seen as sex businesses by the government. This has changed the position of the government, ensuring that these prostitutes are no longer controlled by the mandatory and uniform licensing system for sex businesses. Consequently, under the rules of the Amended Bill Regulation of Prostitution of 2014, local authorities can only make demands on these “home workers” if the same demands are made of any other self-employed home worker (*Handelingen II* 2015/16, 33,885, 97, item 15). However, this gives rise to the problematic situation that the authorities then no longer have the means to reduce harm to those prostitutes who do not work in a brothel or other sex business ([Post and Brouwer 2017](#)).

As stated above, some members of the Dutch Lower House believe that the Amended Bill Regulation of Prostitution does not sufficiently serve the interest of protecting victims of human trafficking. To ban exploitation and forced prostitution, and to protect human

trafficking victims' freedom and dignity, members of social-democratic, socialist, and Christian parties in Parliament have jointly used their right to submit a legislative proposal themselves. Their bill is called the Bill Penalizing Abuse of Prostitutes Who Are Victims of Human Trafficking and aims to penalize those who perform sexual acts with a prostitute, even though they know or they should seriously suspect that the prostitute has been forced into these acts (*Kamerstukken II* 2014/15, 34,091, 3; *Kamerstukken II* 2014/15, 34,091, 16; *Handelingen II* 2015/16, 87, item 7, pp. 1–2, 13).

The over-riding justification for penalizing the clients of prostitutes lies in preventing prostitutes from being harmed. However, penalization is also intended to have a normative effect. According to the initiators of the bill, the use of the services of a prostitute, who is forced to offer these services, is morally reprehensible and condemnable. Consequently, clients not only have a legal duty to report abuses but also have a moral duty as well (*Kamerstukken II* 2014/15, 34,091, 3; *Kamerstukken II* 2014/15, 34,091, 5; *Kamerstukken II* 2014/15, 34,091, 8; *Handelingen II* 2015/16, 87, item 7). Therefore, there is a likelihood that disguised moralistic reasons are also motivating the introduction of this penalization of clients.

In the summer of 2016, the Lower House of Parliament approved both the Amended Bill Regulation of Prostitution as well as the Bill Penalizing Abuse of Prostitutes Who Are Victims of Human Trafficking (*Handelingen II* 33885, 98, item 26). In 2017, however, both pieces of legislation are still waiting to be debated in the Dutch Senate.

In October 2017, the new government, made up of the right-wing liberal party VVD, two Christian parties, and the liberal democrat D66, presented new plans concerning the regulation of prostitution. They plan to proceed with the Bill Penalizing Abuse of Prostitutes Who Are Victims of Human Trafficking. The Amended Bill Regulation of Prostitution will be re-amended, but the exact changes are still unclear. The new government has announced that the new amended bill will aim to expand the protection offered to prostitutes. For example, the new government believes that it is necessary to regulate all forms of professional sexual services, including the services of self-employed prostitutes.

Discussion and Conclusion

In this paper, we examined developments in Dutch prostitution policy since the beginning of the twentieth century. By providing insight into developments in Dutch prostitution policy, the value of the analytical framework developed in The regulation of prostitution from a theoretical perspective has become apparent. The combined use of the concepts of regulatory models, views on prostitution, and principles that justify a restriction of freedom as a result of governmental intervention, have provided a tool with which we have been able to gain a deeper and more nuanced insight into the gradual development of the prostitution policies. The application of this analytical framework has resulted in distinguishing the various ways in which prostitution has been regulated in the Netherlands since the beginning of the twentieth century, and has provided an explanation for the different attitudes of the legislator toward prostitution.

However, our analysis reveals that the administrative level at which the regulation took place has changed over the course of time as well. At the beginning of the twentieth century, the facilitation of prostitution was forbidden, and, as a result, municipalities were unable to pursue their own prostitution policy. Despite a national prohibition, local authorities quickly took steps to regulate the prostitution sector instead. Eventually, in 2000, they were legally

entitled to design their own prostitution policy. However, this freedom is restricted when the legislator adopts the Bill Regulation of Prostitution. From that moment on, local authorities are only allowed to determine prostitution policy for themselves in a limited number of areas. This development shows that the administrative level at which the regulation of prostitution occurs — state or municipality — also influences the way prostitution is regulated. Therefore, we believe this administrative level of governance should be added to the analytical framework as its fourth component.

This framework can contribute to further research on this matter as well. It enables researchers to map and compare developments in prostitution policies throughout various national jurisdictions. By combining four different lenses (i.e., model, vision, justifying principles, and level of governance), it can be used to achieve a deeper and more nuanced understanding of the underlying rationales of the various ways societies deal with prostitution. In other words, the framework offers a basis for comparative legal research. The framework contains, in the words of Zweigert and Kotz, “neutral concepts” that enable us to search, without ethnocentrism, for different legal reactions toward prostitution in different countries (Zweigert and Kötz 1998) (Table 1).

The table below schematically illustrates the developments in Dutch prostitution legislation from the beginning of the twentieth century onward.

Our analysis has revealed that the legislator’s changing view concerning prostitution has primarily resulted in changes in Dutch prostitution legislation and its justification in the last hundred years. In the course of the twentieth century, it became clear that the partial criminalization of prostitution, as a result of the abolitionist view of the legislator, was no longer sustainable. There was a growing belief that the existence of prostitution was a facet of society, resulting in the regulation of prostitution by local authorities to keep this ineradicable phenomenon under control. Although prostitution stayed *de iure* partially criminalized, *de facto* it was legalized. The national authorities supported these developments, but they did not morally approve of prostitution. This regulationist view of prostitution also explains why the authorities no longer based their criminal intervention on moral grounds, but instead on the idea of protecting others from harm.

At the end of the twentieth century, the legislator’s view of prostitution changed again. It no longer considered prostitution as morally reprehensible but recognized it as legitimate work instead. The legalizationist view of the legislator resulted in the legalization of prostitution and the abolition of moralistic criminal intervention in prostitution, which had made the running of a brothel officially illegal up until that time. This change of mindset, however, did not mean that the legislator placed no obstacles in the path to prostitution. The legislator holds that prostitution is a special profession with high risks with regard to both prostitutes and public

Table 1 Developments in Dutch prostitution policy since the beginning of the twentieth century

	Act against Immorality of 1911	Daily practice till 2000	Act Lifting the Ban on Brothels of 2000	Bill Regulation of Prostitution of 2014
Model	Partial criminalization	<i>De iure</i> partial criminalization De facto legalization	Legalization	Legalization
Vision	Abolitionistic	Regulationistic	Legalizationistic	Legalizationistic
Justifying principle	Moralism	Harm	Harm	Harm
Level of governance	State	Municipality	Municipality	State

order. Therefore, the recognition of prostitution as legal work was accompanied by stringent administrative regulation of prostitution at the local level, with the aim of protecting the prostitute as well as the society from harm. To summarize, the liberalization of the prostitution sector resulted at the same time in a far-reaching restriction of the freedom of the sector's key actors, since they could no longer use their own discretion but were forced to observe strict administrative regulations to protect others from harm.

After 2000, public opinion about prostitution changed fundamentally. Partly due to ongoing media attention to the sex industry's wrongs, prostitutes were no longer seen as independent and autonomous workers but as victims of exploitation and coercion as a result of deception and maltreatment. As a result of the increased attention to the particular and special nature of prostitution, Dutch society no longer saw prostitution as a "regular job." Consequently, politicians felt compelled to further tighten up Dutch prostitution policy to better protect prostitutes from harm and to improve their position. To achieve these objectives, the legislator deemed it necessary to set national, uniform, and obligatory requirements for prostitution and the prostitution sector. Two recently introduced and amended bills are intended to provide a solution for this.

The above-mentioned developments in Dutch prostitution legislation show that the Dutch legislator considers the regulation of prostitution as an important area of governmental responsibility. The legislator tries to find a balance between the freedom of prostitution and protection against harm caused by this phenomenon. As a result, prostitution is visible in Dutch society, but the possibilities concerning prostitution are most certainly not unlimited. The authorities actively intervene in the prostitution sector in order to control it, as well as to protect prostitutes and the general public from harm. Paradoxically, the idea of this liberal dream goes hand-in-hand with a growing repression of personal freedom in the Dutch prostitution sector.

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